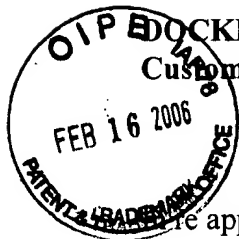


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DOCKET NO.: PRES06-00217

Customer No.: 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application of : Ronald A. Schachar

Application No. : 09/940,722

Filed : August 27, 2001

For : SCLERAL PROSTHESIS FOR TREATMENT OF PRESBYOPIA
AND OTHER EYE DISORDERS

Group No. : 3738

Examiner : David H. Willse

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

The undersigned hereby certifies that the following documents:

1. Petition to Withdraw Holding of Abandonment;
2. Copy of docket report;
3. Declaration of William A. Munck;
4. Declaration of Terri L. Massengale; and
5. A return postcard

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 13, 2006.

Date: Feb 13, 2006

Kathy Hamilton
Mailer

Date: Feb 13, 2006

William A. Munck
William A. Munck

P.O. Drawer 800889
Dallas, Texas 75380
Phone: (972) 628-3600
Fax: (972) 628-3616
E-mail: wmunck@davismunck.com

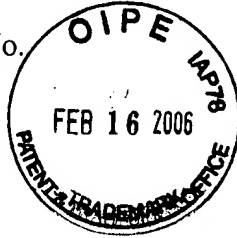
Reg. No. 39,308

DOCKET NO.: PRES06-00217
Customer No.: 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of : Ronald A. Schachar
Application No. : 09/940,722
Filing Date : August 27, 2001
Title : SCLERAL PROSTHESIS FOR TREATMENT OF
PRESBYOPIA AND OTHER EYE DISORDERS
Examiner : David H. Willse
Group Art Unit : 3738



Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

In response to the Notice of Abandonment mailed December 19, 2005, Applicant submits this Petition. The Notice of Abandonment notes that no response was filed in connection with an Office Action mailed from the Patent Office on May 7, 2004. However, the Applicant never received the Office Action mailed May 7, 2004 in connection with this application. A copy of our docket report in connection with this application is attached for your reference. As you can see on the docket report, this Office Action was ever received or docketed.

In further support of this Petition, attached is a Declaration of William A. Munck and a Declaration of Terri L. Massengale.

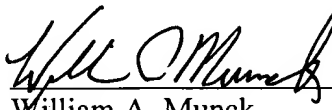
While no fee is believed to be due for the filing of this Petition, the Commissioner is authorized to charge any additional fees or credit any overpayment of fees due by virtue of this Petition to Deposit Account No. 50-0208.

If the Examiner requires any further assistance in this matter, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at wmunck@davismunck.com.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: Feb 13, 2006



William A. Munck
Registration No. 39,308

Docket Clerk
P.O. Drawer 800889
Dallas, Texas 75380
Tel: (972) 628-3600
Fax: (972) 628-3616
Email: wmunck@davismunck.com



Patent: PRES06-00217, United States, Regular, National, Continuation

Patent Data

| | | | |
|--------------------|----------------|---------------------|----------------------|
| Docket Number | PRES06-00217 | Attorney | Munck, William A. |
| Country | United States | Agent | |
| Case Type | Regular | Client\Division | Presby Corp. |
| Relation Type | Continuation | Current Owner | ReFocus Ocular, Inc. |
| Filing Type | National | Previous Owner | RAS Holding Corp. |
| Filing Number | | Text #10 | |
| Status | Filed | First Filing Date | 10/8/1997 |
| Sub Status | Published | Sub Status Date | 5/2/2002 |
| Parent Country | United States | Parent Filing Date | 4/16/1998 |
| Parent Number | 6,280,468 | Parent Grant Date | 8/28/2001 |
| Application Number | 09/940,722 | Application Date | 8/27/2001 |
| Patent Number | | Grant Date | |
| Publication Number | US-20020026239 | Publication Date | 2/28/2002 |
| Assigned | | Ind. Claims\Designs | |
| Convention Type | | Total Claims | |
| Custom Code #1 | | TotalClasses | |
| TaxAgent | | ConfirmationNumber | |
| Operating Group | | Tax Base Date | |
| Custom Party #1 | | Next Tax Date | |
| Custom Party #2 | | Expiration Date | |
| Custom Party #3 | | Custom Text #1 | |
| Custom Party #4 | | Custom Date #1 | |
| Custom Party #5 | | Custom Text #2 | |
| Custom Party #6 | | Custom Date #2 | |
| Custom Party #7 | | Custom Text #3 | |
| Custom Party #8 | | Custom Date #3 | |
| Agent Ref No | | Custom Text #4 | |
| Custom Code #2 | | Custom Date #4 | |
| Custom Code #3 | | Text #5 | |
| Custom Code #4 | | Text #6 | |
| Custom Code #5 | | Text #7 | |
| Custom Code #6 | | Text #8 | |
| Custom Code #7 | | Text #9 | |
| Customer Code | N7PP | Customer Name | Novakov Davis |

Title

SCLERAL PROSTHESIS FOR TREATMENT OF PRESBYOPIA AND OTHER EYE DISORDERS

Description

Current Expense Information

Expenses

| Expense | Amount | Expense Date | Invoice Number |
|-------------------------|--------|--------------|----------------|
| Filing Fee | 710 | 8/27/2001 | |
| Extension of Time Fee | 930 | 5/27/2003 | |
| Terminal Disclaimer Fee | 110 | 5/27/2003 | |
| Notice of Appeal Fee | 330 | 10/17/2003 | |

| | | |
|------------------------|------|------------|
| RCE Filing Fee | 1428 | 12/22/2003 |
| Assignmt. Recordal Fee | 40 | 1/21/2005 |
| Assignmt. Recordal Fee | 40 | 1/21/2005 |
| Assignmt. Recordal Fee | 40 | 1/21/2005 |

Other Case-Related Information

Actions

| Action | Action Due Date | Taken Date | Deadline Date | Completed Date | Responsible Atty #1 | Responsible Atty #2 | Action Notes |
|-------------------------------------|-----------------|------------|---------------|----------------|---------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| Final Rejection Filed | | | | 12/22/2003 | | | |
| Response to Provoke Advisory Action | | | | 9/17/2003 | | | |
| Notice of Appeal | | | | 10/17/2003 | | | Advisory Action for Notice of Appeal dated 10/31/03. |
| Resp. to 1st OA Filed | | | | 5/27/2003 | | | |
| Resp. to Notice of Non-Compliance | | | | 2/3/2004 | | | Notice of non-compliance dated 01/06/04. |
| Request for Continued Examination | | | | 12/22/2003 | | | |
| Final Rejection Mailed | | | | 7/17/2003 | | | |
| Published | | | | 2/28/2002 | | | |
| Advisory Action Due | | | | 9/30/2003 | | | |
| No Foreign Filing | | | | | | | |
| IDS Not Applicable | | | | | | | |
| Restriction Mail Date | | | | 3/15/2004 | | | |
| Restriction Requirement Due | | | | 4/15/2004 | | | |
| Response to Restriction Requirement | | | | 2/24/2005 | | | Substitute Response to Restriction and Letter to Director to accept Substitute Response and notification of nonreceipt of Notice of NonCompliance . |
| File Assignment | | | | 1/21/2005 | | | |
| Status Inquiry Due | | | | 12/1/2005 | | | |
| Notice of Abandonment Rec'd | | | | 12/19/2005 | | | |
| Abandon? | 2/19/2006 | | | | | | |

Inventors

| Inventor Name | Assignment Date |
|---------------|-----------------|
|---------------|-----------------|

Ronald A. Schachar

CreateUser: MDC

UpdateUser: dbo

CreateDate: 5/2/2002

UpdateDate: 12/29/2005

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DOCKET NO.: PRES06-00217
Customer No.: 23990



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ronald A. Schachar
Application No.: 09/940,722
Filed: August 27, 2001
For: SCLERAL PROSTHESIS FOR TREATMENT OF
PRESBYOPIA AND OTHER EYE DISORDERS
Group No.: 3738
Examiner: David H. Willse

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF WILLIAM A. MUNCK

I, William A. Munck, hereby declare:

1. I am the Chairman of the Intellectual Property section at the law firm of Davis Munck, P.C. and I am the attorney for Applicant in the above-identified patent application.
2. We received a Notice of Abandonment from the Patent Office dated December 19, 2005 for failure to respond to an Office Action dated May 7, 2004.
3. When correspondence is received from the Patent Office it is entered into our docket system and the original correspondence is filed into its file jacket with its respective file history.
4. After receiving the Notice of Abandonment, I searched our file history and reviewed our docket system in connection with the above-identified patent application and it appears that we did not receive the Office Action mailed May 7, 2004 in connection with this matter.

5. If an Office Action had been received in our Office in connection with the above-identified application, the docket report would have been updated to reflect an "Office Action" listed under the Action column with the Patent Office mail date listed under the "Completed Date" column and the response due date would have been automatically generated and listed under the "Action Due Date" column when the report was saved.
6. As you can see by the docket report that is filed along with the Petition, to date we have not received the Office Action mailed May 7, 2004 in connection with the above-identified patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: Feb 13, 2006



William A. Munck

DOCKET NO.: PRES06-00217
Customer No.: 23990



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ronald A. Schachar
Application No.: 09/940,722
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Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF TERRI L. MASSENGALE

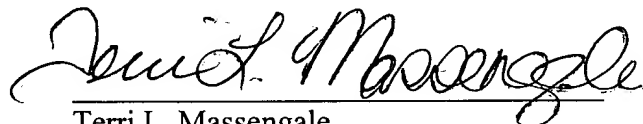
I, Terri L. Massengale, hereby declare:

1. I am the senior paralegal in the Intellectual Property Section at the law firm of Davis Munck, P.C.
2. I regularly receive and docket all correspondence regarding Intellectual Property matters handled by the firm of Davis Munck, P.C.
3. When correspondence is received from the Patent Office, I enter it into our docket system and I place the original correspondence into its file jacket with its respective file history. The file is then given to the attorney for handling.
4. I regularly run a docket report each week that lists all matters due for the upcoming month.

3. To date, I have not received the Office Action mailed May 7, 2004 in connection with the above-identified patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 2-09-06


Terri L. Massengale